

## Surface Mining Reclamation and Enforcement, Interior

§ 948.25

amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise the West Virginia program as follows:

(1) Amend the West Virginia program to be consistent with 30 CFR 701.11(e)(2) by clarifying that the exemption at CSR 38-2-3.8(c) does not apply to (1) the requirements for new and existing coal mine waste disposal facilities; and (2) the requirements to restore the land to approximate original contour.

(2) Amend CSR 38-2-4.12 to reinstate the following deleted language: "and submitted for approval to the Director as a permit revision."

(3) Amend the West Virginia program by clarifying that the requirements at CSR 38-2-5.4(c) also apply to slurry impoundments.

(4) Amend CSR 38-2-14.15(m), or otherwise amend the West Virginia program to require compliance with 30 CFR 816/817.81 (b), (d), and (e) regarding coal refuse disposal, foundation investigations and emergency procedures and to clarify that where the coal processing waste proposed to be placed in the backfill contains acid- or toxic-producing materials, such material must not be buried or stored in proximity to any drainage course such as springs and seeps, must be protected from groundwater by the appropriate use of rock drains under the backfill and along the highwall, and be protected from water infiltration into the backfill by the use of appropriate methods such as diversion drains for surface

runoff or encapsulation with clay or other material of low permeability.

[50 FR 28324, July 11, 1985 and 50 FR 38652, Sept. 24, 1985, as amended at 51 FR 9651, Mar. 20, 1986; 51 FR 40796, Nov. 10, 1986; 55 FR 21338, May 23, 1990; 56 FR 50269, Oct. 4, 1991; 56 FR 58311, Nov. 19, 1991; 60 FR 51918, Oct. 4, 1995; 61 FR 6536, Feb. 21, 1996; 61 FR 38387, July 24, 1996]

### §948.20 Approval of State abandoned mine land reclamation plan.

The West Virginia Abandoned Mine Reclamation Plan as submitted on October 29, 1980, and as amended December 12, 1980, is approved effective February 23, 1981. Copies of the approved plan are available at the following locations:

(a) West Virginia Division of Environmental Protection, 10 McJunkin Road, Nitro, West Virginia 25143.

(b) Office of Surface Mining, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301. Telephone: (304) 347-7158.

[50 FR 28324, July 11, 1985, as amended at 59 FR 17931, Apr. 15, 1994]

### §948.25 Approval of West Virginia abandoned mine land reclamation plan amendments.

The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Original amendment submission date	Date of final publication	Citation/description
May 20, 1985 .....	July 11, 1985 .....	Transfer of program authority to the Department of Energy (HB 1850). Agency structure, public participation procedures, assumption of emergency reclamation program.
December 30, 1987 ..	August 26, 1988 .....	
September 17, 1991, October 25, 1991.	March 26, 1993 .....	Amendments contained in House Bill 2492; Expanded eligibility criteria; Acid mine drainage treatment and abatement program.

[62 FR 9958, Mar. 5, 1997]

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**§ 948.26 Required abandoned mine land reclamation program/plan amendments. [Reserved]**

**§ 948.30 State-Federal Cooperative Agreement.**

COOPERATIVE AGREEMENT

This is a Cooperative Agreement (Agreement) between the State of West Virginia (State) acting by and through the Governor, and the United States Department of the Interior (Department), acting by and through the Secretary of the Interior (Secretary).

ARTICLE I: INTRODUCTION, PURPOSE AND RESPONSIBLE ADMINISTRATIVE AGENCY

A. *Authority*: This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (the Federal Act), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved under 30 U.S.C. 1253 to elect to enter into an Agreement for the regulation and control of surface coal mining and reclamation operations on Federal lands within that State. This Agreement provides for such regulation within West Virginia except on lands containing leased Federal coal consistent with the State and Federal Acts, the West Virginia State Program (State program), and the Federal Lands Program (section 523(a) of the Federal Act and 30 CFR parts 740-745).

B. *Purpose*: The purpose of the Agreement is to: (1) Foster State-Federal cooperation in the regulation of surface coal mining and reclamation operations on Federal lands; (2) eliminate unnecessary intergovernmental overlap and duplication; and (3) provide uniform and effective application of the State program on all lands except those containing leased Federal coal in West Virginia.

C. *Responsible Administrative Agencies*: The Department of Natural Resources, Reclamation Division (DNR) is responsible for administering this Agreement on behalf of the Governor on Federal lands throughout the State. The Office of Surface Mining Reclamation and Enforcement (OSM) is responsible for administering this Agreement on behalf of the Secretary, in accordance with the regulations in 30 CFR Chapter VII. The Federal lands in West Virginia covered by this Agreement are predominantly those under the jurisdiction of the United States Department of Agriculture, Forest Service. It is understood by all parties that the Forest Service or the Federal land management agency, if other than the Forest Service, will continue to govern mining operations on Federal lands covered by this agreement pursuant to laws, regulations, agreements, and restrictions for which the respective agency is responsible. These requirements are in ad-

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dition to the requirements discussed in this Agreement.

ARTICLE II: EFFECTIVE DATE

After it has been signed by the Governor and the Secretary, the Agreement shall take effect upon publication in the FEDERAL REGISTER as a final rule. This Agreement shall remain in effect until terminated as provided in Article X.

ARTICLE III: DEFINITIONS

Terms and phrases used in this Agreement which are defined in 30 CFR parts 700, 701 and 740, and the State program shall be given the meanings set forth in said definitions.

ARTICLE IV: APPLICABILITY

A. *Applicability to Federal Lands*: In accordance with the Federal Lands Program in 30 CFR part 740, the laws, rules, terms, and conditions of the State program (as conditionally approved effective January 21, 1981, 30 CFR part 948, or as hereinafter amended in accordance with 30 CFR 732.17) are applicable to Federal lands within West Virginia. This Agreement does not apply to operations on Federal lands containing leased Federal coal.

B. *Filing of Appeals*: Orders and decisions issued by DNR in accordance with the State program that are appealable shall be appealed to the State of West Virginia's Reclamation Board of Review. Orders and decisions issued by the Department that are appealable shall be appealed to the Department of the Interior's Office of Hearings and Appeals.

ARTICLE V: REQUIREMENTS FOR COOPERATIVE AGREEMENT

The Governor and the Secretary affirm that they will comply with all of the provisions of this Agreement and will continue to meet all the conditions and requirements specified in this Article.

A. *Authority of State Agency*: DNR has and shall continue to have authority under State law to carry out this Agreement.

B. *Funds*: Upon application by the DNR and subject to the availability of appropriations, the Department shall provide the State with the funds to defray the costs associated with carrying out responsibilities under this Agreement as provided in section 705(c) of the Act and 30 CFR 735.16. If sufficient funds have not been appropriated to OSM, OSM and DNR shall promptly meet to decide on measures that will insure that mining operations are regulated in accordance with the State program. If agreement cannot be